

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

10 WENDEL WAYNE JOHNSON,

11 Petitioner,

12 v.

13 MAGGIE MILLER-STOUT,

14 Respondent.

CASE NO. C11-5822-BHS-JRC

ORDER DENYING APPOINTMENT
OF COUNSEL

15
16 This petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 has been
17 referred to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b) (1)
18 (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4. Petitioner has filed a motion for
19 appointment of counsel (ECF No. 10).

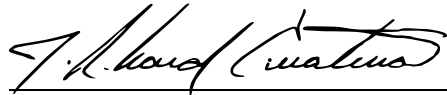
20 There is no right to have counsel appointed in cases brought under 28 U.S.C. § 2254
21 unless an evidentiary hearing is required, because the action is civil, not criminal, in nature.
22 Brown v. Vasquez, 952 F.2d 1164, 1168 (9th Cir. 1991) (*citing* McCleskey v. Zant, 499 U.S.
23 467, 495 (1991)); *see* Ortiz v. Stewart, 149 F.3d 923, 939 (9th Cir. 1998) (“There is simply no
24 constitutional right to an attorney in a state post-conviction proceeding.”); *see also* Terrovona v.

1 Kincheloe, 852 F.2d 424, 429 (9th Cir. 1988); and Rule 8(c) of the Rules Governing Section
2 2254 Cases in the United States District Courts.”

3 The Court has not ordered an evidentiary hearing in this case and is awaiting the filing of
4 an answer to the petition.

5 The motion for appointment of counsel is DENIED.

6 Dated this 20th day of December, 2011.

7 

8 J. Richard Creatura
9 United States Magistrate Judge